

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1166 – SB 1281

March 30, 2011

SUMMARY OF BILL: Authorizes county clerks and designated city officials to administer and collect the business tax, while retaining the option to let the Department of Revenue (DOR) continue to administer and collect the business tax if appropriate resolutions are approved. Authorizes county clerks and designated city officials to charge a \$5.00 fee for collecting and recording business tax, and requires such clerks and officials to remit 15 percent of all business tax collections received to DOR.

ESTIMATED FISCAL IMPACT:

**Decrease State Revenue - \$6,039,100/FY11-12
\$12,078,200/FY12-13 and Subsequent Years**

**Decrease State Expenditures – \$800,000/FY11-12/Department of Revenue
\$1,600,000/FY12-13 and Subsequent Years/Department of
Revenue**

**Increase Local Revenue – \$3,613,300/FY11-12/Permissive
\$7,226,600/FY12-13 and Subsequent Years/Permissive**

**Increase Local Expenditures –
Exceeds \$250,000/FY11-12/Permissive
Exceeds \$500,000/FY12-13 and Subsequent Years/Permissive**

Assumptions:

- On January 1, 2010, DOR began administering and collecting the business tax pursuant to Public Acts 2009, Public Chapter 530. Prior to January 1, 2010, the majority of business tax collections were administered and collected by local government entities.
- Business tax collections (cash collections) for CY2009 were approximately \$134,589,500; for CY2010 cash collections were approximately \$158,745,800. The increase in actual business tax collections from CY2009 to CY2010 was approximately \$24,156,300 (\$158,745,800 - \$134,589,500).
- The business tax is a variable rate tax on gross sales depending on taxpayer classification and whether the taxpayer is a retailer or wholesaler.

- Business tax collections remain constant at \$158,745,800 each subsequent calendar year under current law.
- One-fourth of the growth realized from CY2009 to CY2010 is estimated to be attributable to increasing sales of existing taxpayers occurring as a result of improving economic conditions; another 25 percent is estimated to be attributable to new sales from new taxpayers occurring as a result of improving economic conditions, another 25 percent is estimated to be attributable to a shift in business tax collections from local governments to the state, and another 25 percent is estimated to be attributable to increased taxpayer compliance occurring as a result of DOR administering and collecting the business tax in CY2010.
- All local governments that administered and collected the business tax prior to January 1, 2010, will elect to administer and collect the business tax following enactment of this bill. Therefore, any increase in local government revenue is considered permissive.
- Under current law, the dollar growth in business tax collections attributable to increased taxpayer compliance occurring as a result of DOR administering and collecting the business tax is estimated to be \$6,039,075 (\$24,156,300 x 25%). Under this bill, this amount represents a loss of state revenue because local governments are assumed to be less effective with taxpayer compliance issues than DOR. As a result, instances of non-compliance are expected to increase.
- Under current law, the dollar growth in business tax collections attributable to a shift of business tax collections from local governments to the state is estimated to be \$6,039,075 (\$24,156,300 x 25%). Under this bill, this amount represents a decrease in state revenue and an offsetting permissive increase in local government revenue. This is expected to occur because local governments that elect to administer and collect the business tax will retain a portion of amounts collected. Given that local governments will collect a larger share of the business tax under this bill, they will retain a larger portion that is currently collected and retained by DOR.
- The total recurring decrease in state revenue is estimated to be \$12,078,150 (\$6,039,075 + \$6,039,075).
- Local governments are authorized to charge a \$5.00 fee for collection. DOR estimates there are approximately 475,000 business tax accounts. Fifty percent of these accounts will be collected by local governments; all of which are expected to levy the permissive \$5.00 fee. Therefore, the permissive increase in local government revenue will be \$1,187,500 [(475,000 x 50%) x \$5].
- The total permissive increase in local government revenue is estimated to be \$7,226,575 (\$6,039,075 + \$1,187,500).
- DOR has indicated that departmental expenditures would decrease approximately \$1,600,000 if local governments administer and collect the business tax.
- The permissive increase in local government expenditures as a result of administering and collecting business tax is estimated to exceed \$500,000 statewide each year.
- This bill has an effective date of January 1, 2012. As a result, the first-year (FY11-12) is estimated to be 50 percent of the first full-year impact.

**Article II, Section 24 of the Tennessee Constitution provides that: No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/rnc